

Domov>Sprožitev sodnega postopka>Evropski pravosodni atlas za civilne zadeve>Razveza in ločitev

Razveza in ločitev

Nacionalne informacije v zvezi z Uredbo št. 1259/2010

Splošne informacije

Evropska unija si je zastavila cilj razvijati območje svobode, varnosti in pravice, in sicer tako, da se sprejemajo ukrepi na področju pravosodnega sodelovanja v civilnih zadevah s čezmejnimi posledicami. Povečana mobilnost državljanov na notranjem trgu hkrati zahteva večjo prožnost in večjo pravno varnost.

Uredba Sveta (EU) št. 1259/2010 z dne 20. decembra 2010 o izvajanju okrepljenega sodelovanja na področju prava, ki se uporablja za razvezo zakonske zveze in prenehanje življenjske skupnosti (imenovana uredba Rim III), zagotavlja državljanom ustrezne rezultate glede pravne varnosti, predvidljivosti in prilagodljivosti, štiti šibkejše partnerje v postopkih razveze in preprečuje „izbiranje najugodnejšega sodišča“. To pripomore tudi k preprečevanju zapletenih, dolgih in mučnih postopkov.

Natančneje, Uredba (EU) št. 1259/2010 omogoča mednarodnim parom, da se vnaprej dogovorijo, katero pravo se bo uporabljalo za njihovo razvezo ali prenehanje življenjske skupnosti, če je pravo, o katerem se je par dogovoril, pravo države članice, s katerim sta tesno povezana. Če se par ne more dogovoriti, lahko sodniki uporabijo skupno formulo za odločanje o pravu države, ki se uporabi v posameznem primeru.

Po drugi strani pa se ta uredba ne uporablja za naslednje primere: poslovno sposobnost fizičnih oseb; obstoj, veljavnost in priznanje zakonske zveze; razveljavitev zakonske zveze; priimke zakoncev; premoženjske posledice zakonske zveze; starševsko odgovornost; preživitinske obveznosti, upravljanje premoženja in dedovanje. Prav tako to ne vpliva na uporabo Uredbe (ES) št. 2201/2003 o pristojnosti in priznavanju ter izvrševanju sodnih odločb v zakonskih sporih in sporih v zvezi s starševsko odgovornostjo.

To je pravni akt za izvajanje okrepljenega sodelovanja med sodelujočimi državami članicami. Okrepljeno sodelovanje omogoča skupini vsaj devetih držav članic izvajanje ukrepov na enem od področij, ki jih zajemata Pogodbi v okviru neizključnih pristojnosti Unije. V skladu s členom 331 PDEU nesodelujoče države članice ohranijo pravico do priključitve že obstoječemu okrepljenemu sodelovanju.

Evropski portal e-pravosodje zagotavlja informacije o uporabi uredb.

Okrepljeno Sodelovanje

Svet je 12. julija 2010 sprejel **Sklep št. 2010/405/EU** o odobritvi okrepljenega sodelovanja na področju prava, ki se uporablja za razvezo in prenehanje življenjske skupnosti, med Belgijo, Bolgarijo, Nemčijo, Španijo, Francijo, Italijo, Latvijo, Luksemburgom, Madžarsko, Malto, Avstrijo, Portugalsko, Romunijo in Slovenijo. Navedenih 14 sodelujočih držav članic je zato sprejelo **Uredbo Sveta (EU) št. 1259/2010**, ki se je začela uporabljati 21. junija 2012.

Komisija je 21. novembra 2012 sprejela **Sklep 2012/714/EU** o potrditvi priključitve Litve okrepljenemu sodelovanju na področju prava, ki se uporablja za razvezo in prenehanje življenjske skupnosti. Navedeni sklep določa, da se Uredba (EU) št. 1259/2010 v Litvi uporablja od 22. maja 2014.

Komisija je 27. januarja 2014 sprejela **Sklep 2014/39/EU** o potrditvi priključitve Grčije okrepljenemu sodelovanju na področju prava, ki se uporablja za razvezo in prenehanje življenjske skupnosti. Navedeni sklep določa, da se Uredba (EU) št. 1259/2010 v Grčiji uporablja od 29. julija 2015.

Evropska komisija je 10. avgusta 2016 sprejela **Sklep (EU) št. 2016/1366** o potrditvi priključitve Estonije okrepljenemu sodelovanju na področju prava, ki se uporablja za razvezo in prenehanje življenjske skupnosti. Ta sklep določa, da se Uredba (EU) št. 1259/2010 v Estoniji uporablja od 11. februarja 2018 dalje.

Za podrobnejše informacije o posamezni državi izberite ustrezno zastavico.

Zadevna povezava

ARHIVIRANO spletišče Evropskega pravosodnega atlasa (zaprto 30. septembra 2017)

Zadnja posodobitev: 09/10/2020

Stran vzdržuje Evropska komisija. Informacije na teh straneh ne izražajo nujno uradnega stališča Evropske komisije. Komisija ne sprejema nobene odgovornosti v zvezi z informacijami in podatki, vsebovanimi ali navedenimi v tem dokumentu. Pravila glede avtorskih pravic spletnih strani EU so navedena v pravnem obvestilu.

Law applicable to divorce and legal separation - Belgium**Article 7 (2) to (4) - Formal requirements applicable to agreements on the choice of applicable law**

Belgian legislation does not lay down any specific formal requirements for agreements on the choice of applicable law in accordance with Article 7(2) to (4) of Regulation (EU) No 1259/2010.

Article 5 (3) - Possibility of designating the applicable law during the course of the proceeding

With regard to the rules on the choice of applicable law, the third paragraph of Article 55, § 2, of the Belgian Code of Private International Law (*Wetboek van internationaal privaatrecht/Code de droit international privé*) provides that the choice must be expressed at the first appearance (Act on the Code of Private International Law of 16 July 2004, *Belgisch Staatsblad/Moniteur belge* of 27 July 2004, which entered into force on 1 October 2004).

Last update: 28/02/2023

The national language version of this page is maintained by the respective Member State. The translations have been done by the European Commission service. Possible changes introduced in the original by the competent national authority may not be yet reflected in the translations. The European Commission accepts no responsibility or liability whatsoever with regard to any information or data contained or referred to in this document. Please refer to the legal notice to see copyright rules for the Member State responsible for this page.

Law applicable to divorce and legal separation - Germany**Article 7 (2) to (4) - Formal requirements applicable to agreements on the choice of applicable law**

According to German law (Article 46(e)(1) EGBGB) a choice-of-law agreement pursuant to Article 7(2) to (4) of Regulation (EU) No 1259/2010 is to be recorded in a notarial act. Article 127(a) of the Civil Code applies *mutatis mutandis*.

Article 5 (3) - Possibility of designating the applicable law during the course of the proceeding

According to German law (Article 46(e)(2) EGBGB), the spouses can choose the applicable law pursuant to Article 5(3) of Regulation (EU) No 1259/2010 up to the conclusion of the hearing at first instance.

Last update: 14/02/2024

The national language version of this page is maintained by the respective Member State. The translations have been done by the European Commission service. Possible changes introduced in the original by the competent national authority may not be yet reflected in the translations. The European Commission accepts no responsibility or liability whatsoever with regard to any information or data contained or referred to in this document. Please refer to the legal notice to see copyright rules for the Member State responsible for this page.

Law applicable to divorce and legal separation - Estonia

Article 7 (2) to (4) - Formal requirements applicable to agreements on the choice of applicable law

Under Section 641(2) and (3) of the [Family Law Act](#), spouses may enter into an agreement on the law applicable to the divorce corresponding to Council Regulation (EU) No 1259/2010 in person in a notarially authenticated form, or the entry into such judicial proceedings may be recorded as a substitute for the notarially authenticated form.

Article 5 (3) - Possibility of designating the applicable law during the course of the proceeding

Under Section 641(4) of the [Family Law Act](#), spouses may enter into and amend the agreements specified at any time until a petition for divorce is accepted by a notary or in judicial proceedings until the conclusion of preliminary proceedings or the expiry of the deadline for applications in written procedure.

Last update: 29/03/2022

The national language version of this page is maintained by the respective Member State. The translations have been done by the European Commission service. Possible changes introduced in the original by the competent national authority may not be yet reflected in the translations. The European Commission accepts no responsibility or liability whatsoever with regard to any information or data contained or referred to in this document. Please refer to the legal notice to see copyright rules for the Member State responsible for this page.

Law applicable to divorce and legal separation - Greece

Following a statement from Greece on this issue, the European Commission, in its Decision of 27.1.2014 (OJ L 23, p. 41), confirmed the participation of Greece in enhanced cooperation in the area of the law applicable to divorce and legal separation, which is established by Regulation (EU) No 1259/2010 ('Rome III').

Under the above Decision, Regulation (EU) No 1259/2010 applies in Greece as of 29 July 2015.

Article 7 (2) to (4) - Formal requirements applicable to agreements on the choice of applicable law

In Greek law there are no specific national provisions concerning the formal requirements that apply to agreements on the choice of applicable law pursuant to Article 7(2) to (4) of Regulation (EU) No 1259/2010.

Article 5 (3) - Possibility of designating the applicable law during the course of the proceeding

In Greek law there are no specific national provisions concerning the possibility of designating the applicable law in accordance with Article 5(3) of Regulation (EU) No 1259/2010.

Last update: 01/12/2020

The national language version of this page is maintained by the respective Member State. The translations have been done by the European Commission service. Possible changes introduced in the original by the competent national authority may not be yet reflected in the translations. The European Commission accepts no responsibility or liability whatsoever with regard to any information or data contained or referred to in this document. Please refer to the legal notice to see copyright rules for the Member State responsible for this page.

Law applicable to divorce and legal separation - Spain

Article 7 (2) to (4) - Formal requirements applicable to agreements on the choice of applicable law

Spanish law lays down additional formal requirements for agreements on the choice of applicable law in accordance with Articles 7(2) to 7(4) of Regulation (EU) No 1259/2010, namely that the choice of applicable law must be agreed upon in an authentic instrument before a notary public or in an authentic document, which must be clearly and unmistakably dated and signed by the parties, even if the document itself is not a notarial act.

Article 5 (3) - Possibility of designating the applicable law during the course of the proceeding

Under Spanish law, the spouses may not designate the applicable law before the court during the proceedings.

Last update: 26/02/2024

The national language version of this page is maintained by the respective Member State. The translations have been done by the European Commission service. Possible changes introduced in the original by the competent national authority may not be yet reflected in the translations. The European Commission accepts no responsibility or liability whatsoever with regard to any information or data contained or referred to in this document. Please refer to the legal notice to see copyright rules for the Member State responsible for this page.

Law applicable to divorce and legal separation - France

Article 7 (2) to (4) - Formal requirements applicable to agreements on the choice of applicable law

The EU Regulation lays down three formal requirements that must be met if an agreement on the choice of law is to be valid: the agreement must be in writing, it must be dated, and it must be signed by the parties.

The Regulation also gives states the right to lay down additional formal requirements and clarifies how such rules are to be applied depending on the situation of the spouses.

There are no provisions in French law regarding the formal requirements applicable to agreements on the choice of law in divorce or legal separation cases. Consequently, France has not made a declaration under Article 17(1)(a).

If they so wish, therefore, the spouses can choose to seek professional help from the person they believe is best placed to advise them.

Article 5 (3) - Possibility of designating the applicable law during the course of the proceeding

The Regulation states that an agreement between the spouses choosing the law applicable to a divorce or legal separation may be concluded and modified at any time, but at the latest at the time a court is seized.

However, if the law of the forum so provides, the applicable law can also be designated by the spouses before the court during the proceedings (Article 5(2) and (3)).

This option is not expressly provided for in French law. This explains why France has not made a declaration under Article 17(1)(b).

Last update: 05/04/2024

The national language version of this page is maintained by the respective Member State. The translations have been done by the European Commission service. Possible changes introduced in the original by the competent national authority may not be yet reflected in the translations. The European Commission accepts no responsibility or liability whatsoever with regard to any information or data contained or referred to in this document. Please refer to the legal notice to see copyright rules for the Member State responsible for this page.

Law applicable to divorce and legal separation - Latvia

Article 7 (2) to (4) - Formal requirements applicable to agreements on the choice of applicable law

Latvian law lays down no additional formal requirements applicable to agreements on the choice of law, other than those referred to in Article 7(1) of Regulation (EU) No 1259/2010.

Article 5 (3) - Possibility of designating the applicable law during the course of the proceeding

Latvian law does not provide for the possibility of designating the applicable law before the court in the course of the proceedings.

Last update: 19/02/2024

The national language version of this page is maintained by the respective Member State. The translations have been done by the European Commission service. Possible changes introduced in the original by the competent national authority may not be yet reflected in the translations. The European Commission accepts no responsibility or liability whatsoever with regard to any information or data contained or referred to in this document. Please refer to the legal notice to see copyright rules for the Member State responsible for this page.

Law applicable to divorce and legal separation - Lithuania

Article 7 (2) to (4) - Formal requirements applicable to agreements on the choice of applicable law

Lithuanian national law does not lay down additional formal requirements for agreements on the law applicable to divorce and legal separation.

Article 5 (3) - Possibility of designating the applicable law during the course of the proceeding

Lithuanian national law does not provide for the possibility of designating the law applicable to divorce and legal separation before the court during the course of the proceedings.

Last update: 07/04/2023

The national language version of this page is maintained by the respective Member State. The translations have been done by the European Commission service. Possible changes introduced in the original by the competent national authority may not be yet reflected in the translations. The European Commission accepts no responsibility or liability whatsoever with regard to any information or data contained or referred to in this document. Please refer to the legal notice to see copyright rules for the Member State responsible for this page.

Law applicable to divorce and legal separation - Luxembourg

Article 7 (2) to (4) - Formal requirements applicable to agreements on the choice of applicable law

No additional formal requirements are currently in place in Luxembourg.

Article 5 (3) - Possibility of designating the applicable law during the course of the proceeding

In Luxembourg, it is not possible to designate the applicable law before the court during the proceedings.

Last update: 03/11/2021

The national language version of this page is maintained by the respective Member State. The translations have been done by the European Commission service. Possible changes introduced in the original by the competent national authority may not be yet reflected in the translations. The European Commission accepts no responsibility or liability whatsoever with regard to any information or data contained or referred to in this document. Please refer to the legal notice to see copyright rules for the Member State responsible for this page.

Law applicable to divorce and legal separation - Hungary

Article 7 (2) to (4) - Formal requirements applicable to agreements on the choice of applicable law

No further formal requirements apply to agreements on the choice of applicable law other than those provided for in Article 7(1) of Regulation (EU) No 1259/2010.

Article 5 (3) - Possibility of designating the applicable law during the course of the proceeding

The latest time spouses can choose the applicable law is at the trial preparation stage, within the deadline set by the court.

Last update: 03/04/2023

The national language version of this page is maintained by the respective Member State. The translations have been done by the European Commission service. Possible changes introduced in the original by the competent national authority may not be yet reflected in the translations. The European Commission accepts no responsibility or liability whatsoever with regard to any information or data contained or referred to in this document. Please refer to the legal notice to see copyright rules for the Member State responsible for this page.

Law applicable to divorce and legal separation - Austria

Article 7 (2) to (4) - Formal requirements applicable to agreements on the choice of applicable law

Austrian Law provides no additional formal requirements for a choice-of-law agreement pursuant to Article 7(2) to (4) of Regulation (EU) No 1259/2010.

Article 5 (3) - Possibility of designating the applicable law during the course of the proceeding

According to Austrian Law (§ 11(3) IPRG), the spouses can choose the applicable law pursuant to Article 5(3) of Regulation (EU) No 1259/2010 also before the court during the proceedings, provided that the choice of law is exercised explicitly and not only by implied behaviour.

Last update: 16/06/2023

The national language version of this page is maintained by the respective Member State. The translations have been done by the European Commission service. Possible changes introduced in the original by the competent national authority may not be yet reflected in the translations. The European Commission accepts no responsibility or liability whatsoever with regard to any information or data contained or referred to in this document. Please refer to the legal notice to see copyright rules for the Member State responsible for this page.

Law applicable to divorce and legal separation - Portugal

Article 7 (2) to (4) - Formal requirements applicable to agreements on the choice of applicable law

Nothing to communicate.

Article 5 (3) - Possibility of designating the applicable law during the course of the proceeding

Nothing to communicate.

Last update: 07/04/2024

The national language version of this page is maintained by the respective Member State. The translations have been done by the European Commission service. Possible changes introduced in the original by the competent national authority may not be yet reflected in the translations. The European Commission accepts no responsibility or liability whatsoever with regard to any information or data contained or referred to in this document. Please refer to the legal notice to see copyright rules for the Member State responsible for this page.

Law applicable to divorce and legal separation - Romania

Article 7 (2) to (4) - Formal requirements applicable to agreements on the choice of applicable law

There are no further formal requirements applicable to agreements on the choice of law than those stipulated by Article 7 (1) of Regulation (EU) No 1259/2010.

Article 5 (3) - Possibility of designating the applicable law during the course of the proceeding

Under Romanian law, the spouses may also designate the law applicable to divorce after the court has been seised, but no later than the date of the first court hearing at which the spouses have been legally summoned.

The relevant texts of the Civil Code are reproduced below:

Article 2598.

Date of the agreement to select the applicable law

(1) The agreement to select the law applicable to divorce may be concluded or amended at the latest by the date on which the competent authority has been seised to grant a divorce.

(2) However, the court may take note of the spouses' agreement at the latest by the first hearing to which the parties have been legally summoned.

Article 2599.

Form of the agreement to select the applicable law

The agreement to select the law applicable to divorce must be concluded in writing and must be signed and dated by the spouses.

Last update: 12/02/2024

The national language version of this page is maintained by the respective Member State. The translations have been done by the European Commission service. Possible changes introduced in the original by the competent national authority may not be yet reflected in the translations. The European Commission accepts no responsibility or liability whatsoever with regard to any information or data contained or referred to in this document. Please refer to the legal notice to see copyright rules for the Member State responsible for this page.